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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.15971 OF 2025

Iris Co-operative Housing Society Limited

.. Petitioner

Versus

The State of Maharashtra and Ors.

.. Respondents

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- Mr. Mayur Khandeparkar a/w Mr. Devansh Shah and Ms. Purva Naik Advocates for Petitioner i/by Ms. Purva Naik.
- Ms. P.J. Gavhane, AGP for Respondent – State.
- Mr. Heeralal Chaturvedi, Advocate for Respondent No.6.

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CORAM : MILIND N. JADHAV, J.

DATE : DECEMBER 08, 2025.

P.C.:

1. Heard, Mr. Khandeparkar, learned Advocate for Petitioner, Ms. Gavhane, learned AGP for Respondent – State and Mr. Chaturvedi, learned Advocate for private Respondent No.6 By consent of parties Petition is taken up for final hearing forthwith.

2. The present Petition challenges five (5) impugned orders passed by the Statutory Officers / quasi-judicial Authorities in RTS proceedings, *inter alia*, pertaining to Mutation of name of Petitioner-Society in the Revenue Record pertaining to the subject land on which the Society building has been constructed situated at 12th Road, Khar (West), Mumbai Suburban District, bearing CTS No.E/547 (herein referred to as the "subject property").

3. Petitioner is a Co-operative Housing Society. Petitioner has acquired right, title and interest in the subject property by virtue of a registered Conveyance Deed dated 24.11.2021 executed by Developer on behalf of owner of the subject land pursuant to development which is registered with the Office of the Sub-Registrar of Assurances, Andheri - 4 under Serial No.12211/2021. As a consequence Petitioner-Society applied for Mutation of its name in the Property Card i.e. Revenue Record by making an Application under Section 149 of Maharashtra Land Revenue Code, 1966 (for short "**MLRC**") to Respondent No.4.

4. By order dated 13.12.2021, Respondent No.4 rejected the Application without taking any preliminary steps prescribed under Section 150 (1) of MLRC and called upon Petitioner requiring to furnish certified copies of registered Power of Attorney given by the owner and the Release Deed given by the some legal heirs of one of the co-owner of the subject land. Petitioner – Society responded by their letter dated 17.12.2021 and requested Mutation of its name, however Respondent No.4 by order dated 24.12.2021 rejected the Application.

5. Being aggrieved, Petitioner - Society challenged both these orders in statutory First Appeal under Section 247 of MLRC before Respondent No.3. Respondent No.3 without looking into the merits of Petitioner's Application, by order dated 27.06.2022 dismissed the

Appeal of Petitioner. Being aggrieved, Petitioner – Society filed Second Appeal before Respondent No.2 to challenge the order dated 27.06.2022. Respondent No. 2 without considering merits of Petitioner's case as well as the registered Conveyance Deed by order dated 10.10.202 rejected the Appeal.

6. Being aggrieved, Petitioner filed Revision Application No.2624/2528/PR.KR.30/J-3 before Respondent No. 1 - State to challenge the above order. By order dated 22.09.2025, Respondent No.1 dismissed the Revision Application on similar ground without considering Petitioner's Conveyance after noting down the events leading to execution of the Deed of Conveyance. All the aforesaid five (5) orders are subject matter of challenge in the present Petition with consequential reliefs.

7. Mr. Khandeparkar, learned Advocate for Petitioner - Society would submit that Respondent Nos.2 and 3 while exercising Appellate jurisdiction under Sections 247 and 257 of MLRC have acted in a perverse and arbitrary manner by mechanically confirming the impugned orders. He would submit that Respondent Nos.1 to 4 have no authority to adjudicate upon title of Petitioner – Society as the said power vests exclusively exclusively with the competent Civil Court in the event of a lis between parties. He would submit that Respondent Nos.1 to 4 refused to accept the registered Conveyance Deed for

mutating the Revenue Record as stipulated under Section 150 of MLRC without following the due process of law.

7.1. He would submit that Respondent Nos.1 to 4 failed to consider the chain of documents beginning from Affidavits executed in the year 1984 declaring the property as Hindu Undivided Family (for short “**HUF**”), the 2008 Development Agreement between the Owner and Developers, the registered Irrevocable Power of Attorney executed in 2008 and registered Deed of Conveyance dated 24.11.2021 which clearly established transfer of title of subject property in favour of Petitioner – Society pursuant to its development. He would submit that Respondent No.4 exceeded its jurisdiction by going into the validity of the Conveyance Deed and Power of Attorney despite both being registered documents and subsisting documents.

7.2. In addition, he would submit that during hearing of Revision Application, Petitioner – Society was directed to implead Respondent Nos.5 to 8 being legal heirs of the original owner of the subject land and accordingly they were impleaded. He would however submit that without adhering and acknowledging the subsisting registered Deed of Conveyance which *prima facie* reflected transfer of subject property to Petitioner - Society, the inquiry undertaken by Respondent No.4 calling upon Petitioner - Society to submit certified copies of registered Power of Attorney and registered Deed of Conveyance clearly exceeded its

jurisdiction despite the same having been submitted.

7.3. He would submit that quasi-judicial Officers do not have power to adjudicate rights of parties with respect to immovable properties based on registered documents of title which are subsisting and that right is only vested with the Civil Court. He would submit that in the present case, Respondents ought to have followed the procedure prescribed under Sections 149 and 150 of MLRC read with the prescribed Rules for effecting mutation of name of Petitioner - Society in the Property Card. He would submit that on a bare reading of all five (5) impugned orders the prescribed statutory procedure under the above provisions is not followed and an unnecessary and irrelevant enquiry is effected into acquisition of title by Petitioner's - Society through the Deed of Conveyance.

7.4. In support of his submissions, he has referred to and relied upon the decision of the Supreme Court and this Court in the case of *P. Seshareddy (dead) represented by his Lrs. Vs. State of Karnataka and Ors.*¹ and *Akhtar Hasan Rizvi Vs. Harish R. Bhattad and Ors.*². In the case of *Akhtar Hasan Rizvi (supra)*, Court has taken a view with respect to quasi-judicial Officers exceeding their power by dealing with statutory Appeal impugning Mutation Entry has held that quasi-judicial Officers do not have such powers to determine or seek enquiry in

¹ (2022) 16 SCC 629

² (2018) 6 Mah LJ 494

issues relating to title between parties. He would therefore persuade the Court to set aside all five (5) impugned orders which are passed in complete contravention of statutory provisions of law and allow the present Petition.

8. *PER CONTRA*, Mr. Chaturvedi, learned Advocate appearing for Respondent No.6 would submit that Respondent Nos.5, 6 and 7 are legal heirs of original owner of subject land on which Society Building is constructed and are residing in the same Society building whereas Respondent No.8 is residing in Kolkata. He would submit that he is briefed to appear on behalf of Respondent No. 6 only. He would submit that, Dr. Bibhuti Bhushan Dasgupta (Karta of HUF) i.e. original owner executed (registered) Development Agreement dated 10.04.2008 alongwith (registered) Power of Attorney dated 17.06.2008 in favour of M/s. Axis Realty Pvt. Ltd. (Developer) for development of the said property and ultimate transfer thereof in favour of the organization stated therein (i.e. Cooperative Society). He would submit that Developer after getting plans sanctioned completed construction of new building as per Development Agreement consisting of ground floor having part-stilt and Dispensary (Commercial Unit) First Level Podium for Parking and 2nd to 13th upper residential floors consuming available FSI as per plans duly approved by Municipal Corporation.

8.1. He would submit that on completion of the development the Developer handed over 2 residential units i.e. 2 flats alongwith Dispensary (3rd Commercial Unit) and 3 car parking spaces as agreed in the Development Agreement to the Original Owner and Developer which is presently occupied by Respondent Nos. 5 to 7, legal heirs of Original Owner and sold the remaining 10 flats / units to various flat purchasers under the provisions of Maharashtra Ownership Flat (Regulation of the Promotion of Construction, Sale, Management and Transfer) Act, 1963 (for short “**MOFA**”). Separate MOFA Agreements were executed with all remaining 10 flat purchasers and registered giving reference to Development Agreement.

8.2. He would submit that in the meantime Flat Purchasers formed a Co-operative Housing Society Limited namely Petitioner – Society. He would submit that though Respondent Nos.5 to 7 are in peaceful and uninterrupted possession of their respective premises they still have certain rights in the land and seek exercise of certain obligations from Petitioner - Society before name of Society is mutated on the Property Card. He raises serious objection to the registered Conveyance Deed dated 24.11.2021 and on instructions would submit that private Respondents i.e legal heirs of original owner desire to challenge the same. He would fairly submit that the registered Deed of Conveyance is not yet challenged in any proceedings but his client is contemplating a challenged in the appropriate Court. He would submit

that as legal heirs of original owner of subject property, private Respondents have a subsisting right in the said property with respect to terms of the Development Agreement and therefore they desire to raise objections. What are their specific rights, he is unable to tell the Court today.

8.3. He would submit and argue that private Respondents i.e. legal heirs of the original owner of suit property have been defrauded in respect of their entitlement by the Developer as their rights *inter se* amongst themselves are complex rights of various parties involved in view of the release deeds and Power of Attorneys given to other family member and hence the statutory Officers have rightly refrained from mutating the name of Petitioner - Society on the Property Card by adjudicating the issue of entitlement.

8.4. In support of his submissions he has referred to and relied upon the following decisions viz, *M. S. Ananthamurthy and Anr. Vs. J. Manjula Etc.*³ ; *Nirav Deepak Modi Vs. Najoo Behram Bhiwandiwalla*⁴ and *Ors. and Padma Lal Chand Mirchandani Vs. The Commissioner of Income Tax (Delhi)*⁵.

8.5. He would vehemently submit that in that view of the matter names of original owner should be retained in the Property Card until the private Respondents i.e. legal heirs of original owner approach the

³ Civil Appeal Nos.3266-3267 of 2025 decided on 27.02.2025

⁴ AIR 2012 BOM 50

⁵ ILR 1979 Del. 295

Civil Court for ascertaining and determining their substantive right in respect of the subject property and until then the impugned orders should not be disturbed. Hence, he would persuade the Court to uphold the impugned orders for the present until private Respondents approach the Civil Court and dismiss the present Petition filed by Petitioner - Society to enable the private Respondents to maintain their challenge.

9. I have heard, Mr. Khandeparkar, learned Advocate for Petitioner, Ms. Gavhane, learned AGP for Respondent - State and its functionaries and Mr. Chaturvedi, learned Advocate for private Respondent No.6 legal heir and son of original owner. and with their able assistance perused the entire record of the case. Submissions made by the learned Advocates at the bar have received due consideration of the Court.

10. In the present case the controversy is narrow. An owner of property having a registered deed of conveyance in its favour has made an application seeking mutation of its name in the revenue record. That application is made under the statutory provisions of Section 149 of MLRC. There is a procedure prescribed under Section 150 sub - section 1 to sub - section 4 of MLRC for effecting mutation of the name of the party in the revenue record. That procedure envisages mutation on the basis of either a registered document of title or by operation of

law as and when an appropriate application is made and appropriate enquiry is made and objectors are heard qua the Application made Petitioner-Society in the present case has exercised its right of making the said application before Competent Authority Respondent No.4.

11. The Competent Authority by virtue of first two impugned orders viz; dated 13/12/2021 followed by order dated 24/12/2021 rejected the application on the premise that for consideration of the application, Petitioner-Society would have to place on record copies of certain, *inter se*, documents namely release deed and Power of Attorney given by the original owner which is contained in the recitals of the Deed of Conveyance. That authority of the quasi-judicial officer is de hors its jurisdiction. No power is given to the quasi-judicial officer to adjudicate the issue of title when mutation is sought. So long as there is compliance of registered conveyance which has not been set aside or duly cancelled by an appropriate Civil Court, the quasi-judicial officer cannot embark upon adjudication of title and will have to accept the same and follow the prescribed procedure of inviting objections under Section 150(1) read with section 150(2) (4) of the MLRC.

12. In the present case, it is seen that the First Appellate Authority namely Sub Divisional Officer as well as the Second Appellate Authority namely, Additional Commissioner, Konkan

Division both have upheld the twin orders of enquiry and adjudication of title passed by Respondent No. 4 without adverting to the prescribed provisions for effecting Mutation Entry.

13. It is next seen that in the Revision proceedings before the State, State directed impleadment of private respondents i.e. legal heirs of original owners to the proceedings. These private respondents before me are the Respondents Nos. 5 to 8, out of which Respondent No. 6 is represented by Mr. Chaturvedi. Respondent Nos. 5 to 7 are residents of the same Society Building.

14. It is seen that these private Respondents are the legal heirs of original owner of subject land in respect of which registered development agreement was executed with Developer and pursuant to which irrecoverable General Power of Attorney was also granted to the Developer. Thereafter it is admitted position that MOFA agreement was entered into with prospective 10 flat purchasers as also the 3 unit holders i.e. the owners of the subject land who are members of the Society and thereafter the property has been conveyed to the society by virtue of the registered Deed of Conveyance. All those documents are admittedly subsisting as on date. They are neither challenged nor set aside.

15. Though Mr. Chaturvedi has argued that legal heirs of original owner still have a substantive right in the subject land which is

fully developed and constructed under the Development Agreement; that right if any will have to be not only exercised and adjudicated by a Competent Court of original civil jurisdiction but also fructified. If at all the legal heirs of the original owner have any subsisting substantive right in the subject land, they can undoubtedly exercise the same by challenging the Deed of Conveyance executed by the Developer with the Society on behalf of the original owner on the basis of the registered Development Agreement, the MOFA Agreement and the Irrevocable Power of Attorney. Mr. Chaturvedi informs the Court that his instructions are that Respondent Nos. 5 to 8 intend to file a substantive Suit.

16. In the present case, it is seen that by virtue of Development Agreement, original owner of the subject land was entitled to one Dispensary on the ground floor (commercial unit) and two residential flats on the 10th and 11th floor of the Society building. That having been delivered to the original owner, which are now presently occupied by Respondent Nos. 5 to 8 and they not having taken any steps to challenge the Deed of Conveyance, the submissions made by Mr. Chaturvedi cannot be countenanced by Court. Further the fact that the quasi-judicial authorities all through out have embarked upon an unnecessary and irrelevant enquiry into adjudication of the substantive rights of the parties, inter alia, pertaining to rights of various co-owners in respect of the said land and property was not required to be

gone into at all. That domain remains exclusively within the ambit of the Civil Court. Once the private Respondents who are legal heirs of original owner, not having challenged the Deed of Conveyance executed and registered in 2021, the respondents cannot oppose mutation of Petitioner – Society's name in the property card. The Deed of Conveyance is appended to the Petition. It is narrating the chain of events and documents since 2008 ultimately fructifying and leading to execution of Deed of Conveyance in 2021. On reading the same, there is nothing stated therein which may enable the Respondent Nos. 5 to 8 to challenge the same since Mr. Chaturvedi on behalf of Respondent No.6 has argued fraud.

17. Needless to state that mutation of names of parties in revenue record does not establish title of parties, the entries are made of fiscal purposes and the title stands established either by virtue of a registered document or by operation of law.

18. In the present case, title of Petitioner-Society stands duly established by virtue of Deed of Conveyance executed by Developer on behalf of the original owner with the Society on the basis of the Development Agreement and the Power of Attorney. That assurance of execution of the Deed of Conveyance was given by Developer in the MOFA agreement executed with each individual member of the Society which is not denied.

19. It is *prima facie* seen that the private Respondent Nos. 5 to 8 who are legal heirs of original owner are aggrieved with the mutation. This is what is expressed by Mr. Chaturvedi on behalf of Respondent No. 6. They cannot have any ground to oppose mutation whatsoever unless and until they take effective steps for challenging the registered Deed of Conveyance dated 24.11.2021 which *prima facie* clearly establishes transfer of right, title and interest to the Petitioner-Society.

20. In the present case, mere objection raised by private respondents namely legal heirs of original owner therefore cannot be countenanced. *Prima facie*, it is seen that private respondents have already benefited under the Development Agreement and got the 3 assured units in the Society Building along with 3 parking spaces. It is seen that private respondents are in occupation of one commercial and two residential units in the Society building. Once this is the case then they cannot raise any objection unless and until the Deed of Conveyance subsists.

21. In the present case, it is seen that Society comprises of 13 units, 12 are residential units and 1 is a commercial unit. It is seen that 3 units are held by legal heirs of original owner of the land wherein Respondent Nos. 5 to 7 are residing and the Dispensary is also held by them on which Society building has been developed and constructed. There may be differences between legal heirs of original owner and

Society but in the absence of any Court order injuncting taking steps for mutation of the basis of the registered Conveyance executed in favour of Petitioner-Society, the private Respondents' objection cannot be sustained.

22. In view of the aforesaid observations and findings, the five impugned orders namely orders dated 13.12.2021 and 24.12.2021 passed by the Respondent No. 4, order dated 27.06.2022 passed by the Respondent No. 3, order dated 10.10.2023 passed by the Respondent No. 2 and order dated 22.09.2025 passed by the Respondent No. 1, are clearly unsustainable in law and deserve to be interfered with. All the aforesaid five impugned orders are, therefore, quashed and set aside. The quasi-judicial authorities in RTS proceedings cannot embark upon an enquiry for adjudicating the title of the Petitioner Society.

23. Resultantly, application of the Petitioner-Society filed under Section 149 of the MLRC for effecting Mutation of its name on the strength of the registered Deed of Conveyance deserves to be allowed. It is clarified that Respondent Nos. 5 to 8 shall be entitled to challenge the Deed of Conveyance in accordance with law and if that is done, the outcome of the said challenge will determine the mutation of the name of the holder in the Property Card.

24. The statutory authority (Respondent No.4) is directed to mutate the name of the Petitioner-society in the Property Card /

Revenue Record, *inter alia*, pertaining to the subject property. Needless to state that mutation of name of the Society can always be challenged by private respondents and that right of the private respondents is always available to them but to be exercised in an appropriate Court having original civil jurisdiction and only if any order is passed in their favour and against the Society, then they can they seek challenge to the mutation entry. That right is not crystallized as on date in favour of Respondent Nos. 5 to 8.

25. All rights of private Respondent Nos. 5 to 8, legal heirs of the original owner of the subject land, if any are expressly kept open for them to exercise to challenge the registered conveyance deed dated 24.11.2021 strictly in accordance with law.

26. With the above directions, the Writ Petition stands allowed and disposed of.

[MILIND N. JADHAV, J.]

27. After the order is pronounced in open Court, Mr. Chaturvedi, learned Advocate for Respondent No.6 prays for stay of the present order to test its validity and legality in the Superior Court.

28. Mr. Khandeparkar, learned Advocate Advocate for Petitioner would oppose grant of any such order in view of the timeline in the present case as also Respondents' right having been kept reserved to

approach the Civil Court if they so desire.

29. In view of the observations and findings, I am not inclined to accept the request made by Mr. Chaturvedi and stay the order as requested by him. The request is declined.

[MILIND N. JADHAV, J.]

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